Legislative Assembly of Ontario

Assemblée législative de l'Ontario

OFFICE OF THE INTEGRITY COMMISSIONER

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REPORT

OF

THE HONOURABLE COULTER A. OSBORNE INTEGRITY COMMISSIONER

RE: THE HONOURABLE HARINDER TAKHAR, MINISTER OF TRANSPORTATION & MEMBER FOR MISSISSAUGA CENTRE

TORONTO, ONTARIO
JANUARY 4, 2006

RE: THE HONOURABLE HARINDER TAKHAR,
MINISTER OF TRANSPORTATION &
MEMBER FOR MISSISSAUGA CENTRE

Background

[1] On June 15, 2005 John Tory the Leader of the Official Opposition and member for Dufferin-Peel-Wellington-Grey asked me to inquire into certain aspects of the conduct of Harinder Takhar, Minister of Transportation and member for Mississauga Centre (the Minister). In his request for an opinion Mr. Tory alleged that the Minister had breached several sections of the Members' Integrity Act, 1994 (the Act).

[2] Mr. Tory's request for an opinion centred on April 29, 2005 when the Minister was seen at the offices of the Chalmers Group of Companies. At that time the Minister's controlling share interest in the Chalmers Group was held in a management trust of which Joseph Jeyanayangam, Chalmers' CFO, is trustee. Mr. Jeyanayangam was also the elected treasurer of the Minister's Riding Association as of December 17, 2004.

[3] The Minister's attendance at Chalmers' premises on April 29th (and on other occasions to which I will refer shortly) and what Mr. Tory contends is a non-arm's length relationship between the Minister and his trustee, Mr. Jeyanayangam, are the core elements of Mr. Tory's contention that the Minister breached several sections of the Act.

[4] I should set out here what my office's involvement with matters raised in Mr. Tory's allegations (the Complaint) was before June 15, 2005 when I received Mr. Tory's Complaint. On June 10, 2005 Ms. Morrison of my office received a telephone call from the Minister's office and a follow up email. Both referred to the Minister's attendance at the office of the Chalmers Group of Companies on April 29th. The email noted that the Minister's wife runs the Chalmers companies and that he has never drawn a salary. It also confirmed that the Minister did not discuss "business" when he met with his wife and trustee at the Chalmers offices on April 29, 2005. In addition on June 10, 2005 by

telephone the Minister discussed the issue of his attendance at Chalmers on April 29th with Ms. Morrison and me.

[5] The Sunday June 12, 2005 edition of the Toronto Sun included the photograph of the Minister speaking on his cell phone outside of the Chalmers offices. It accompanied a column headlined, "Caught in the Act?" by Sun reporter Christina Blizzard. That article appears to be the first public disclosure of the Minister's attendance at Chalmers on April 29, 2005. In her article Ms. Blizzard referred to comments made by the Minister in relation to his attendance at Chalmers on April 29th:

> I don't go there very often…I only go there when I have to see my wife or when I have to have lunch with her. I never went there before. I was never actively involved in the business, ever.

[6] On June 13, 2005 I received a letter from Mr. Jeyanayangam, writing in his capacity as trustee of the Minister's management trust. Mr. Jeyanayangam's letter explained the purpose of the April 29th meeting in this way:

> Just for your information, Mr. Takhar called me on April 21, 2005 to arrange a meeting, as his wife was anxious to have a meeting concerning education plans for their younger daughter who is planning to seek admission to university/college this year.
>
> He asked me to attend this meeting as an observer as it could have had a financial impact on the management of the assets in the Blind Trust. Due to conflicting and demanding schedules I was only able to arrange the meeting on April 29th morning. We agreed to meet at my workplace where the financial records of the Blind Trust are kept.

[7] In his letter Mr. Jeyanayangam enclosed notes that he said he took during the course of the meeting attended by the Minister, Mrs. Takhar and him on April 29th. A typed transcript of Mr. Jeyanayangam's notes is annexed as Appendix A to this Report. I will make further reference to Mr. Jeyanayangam's notes later.

[8] On June 15, 2005 the Minister wrote to me and asked that I review Mr. Jeyanayangam's notes of the April 29th meeting attended by the Minister, his wife

and Mr. Jeyanayangam. In his letter the Minister explained why he had asked Mr. Jeyanayangam to take notes at the meeting:

> The reason that I requested that these minutes be taken was to ensure that this meeting was confined to a personal family matter regarding the education of my daughter and not relating to any business matters.

This explanation was in response to my earlier question to the Minister as to why anyone would take notes, or be asked to take notes, at a meeting the sole purpose of which was to discuss the Minister's daughter's university education and particularly how it might be paid for.

[9] On June 15, 2005 I received Mr. Tory's Complaint and the Minister's request for an opinion under s.28 of the Act. Since both concerned the same issues, I gave priority to the Complaint.

[10] I refer to the events of June 10 to June 15, 2005 only to provide background and certainly not to be critical of the Minister for contacting my office about matters arising out of the April 29th meeting at Chalmers and related issues.

[11] As Mr. Tory's Complaint proceeded through the usual process (complaint/response/reply) Mr. Tory presented additional evidence which in fairness had to be given to the Minister for response. In result the response process was extended to November 2005. I will refer to this additional evidence later in this Report. I now leave it by noting that it does not provide direct evidence going to the substance of the misconduct alleged. Lastly, as part of the inquiry into matters related to Mr. Tory's Complaint, I sought production of any emails to or from the Minister's office and anyone at Chalmers. This aspect of the inquiry was not finalized until December 21, 2005.[1]

[1] I believe that the Minister's email records are subject to a yet unfulfilled FOI request.

The Complaint

[12] In his Complaint, Mr. Tory alleged that the Minister breached, or may have breached, s.10 of the Act which prevents a Minister from engaging in the management of a business carried on by a corporation. He also contended that by having Mr. Jeyanayangam as his trustee the Minister breached ss.11(3)2, s.12(2)2[2] and s.2 of the Act. Sections 11 and 12 require the trustee of a management trust under the Act to be at "arm's length" with the Minister. Mr. Tory contends that since Mr. Jeyanayangam was the Chief Financial Officer of The Chalmers Group of Companies and treasurer of the Minister's Riding Association he was not at arm's length with the Minister.[3]

[13] In the course of the process set in motion by Mr. Tory's allegations, the Minister acknowledged that the Annual General Meeting of his Riding Association was held at the Chalmers offices on December 17, 2004 and that he had attended that meeting.

[14] In his Response, the Minister also acknowledged that he was present at Chalmers on April 29, 2005 for about 3 hours during which he met with Balwinder Takhar, his wife, and Mr. Jeyanayangam, his trustee. He contends that the sole subject matter of the April 29th meeting was his 17 year old daughter's university education, and particularly how it would be paid for should she choose to go to a university in the United Kingdom. The Minister took the position throughout that he was at no time, including April 29th, engaged in the management of any Chalmers company and was thus not in breach of the Act's prohibition against members of the Executive Council being engaged in the management of a "business carried on by a corporation". He emphasized that I had approved Mr. Jeyanayangam's appointment as the Minister's trustee in December 2003, shortly after the Minister's appointment to the Executive Council, but before Mr. Jeyanayangam's election as CFO of the Minister's Riding Association. In any case, the Minister's position is that his relationship with Mr. Jeyanayangam was at all times an arm's length relationship.

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[2] After reviewing the Minister's Response, Mr. Tory withdrew his allegation that the Minister may have breached s.12 of the Act. Mr. Tory's Complaint also refers to s.2 of the Act. I will deal with s.2 later in this Report.

[3] Mr. Jeyanayangam was also the CFO of the Minister's election campaign. His duties ended with the filing of financial information required by the Ontario Election Finances Act.

The Relevant Provisions of the Members' Integrity Act, 1994

[15] Section 30 of the Act permits a member who has reasonable and probable grounds to believe that another member has breached the Act or Ontario parliamentary convention. Section 30(1) states:

> 30(1) A member of the Assembly who has reasonable and probable grounds to believe that another member has contravened this Act or Ontario parliamentary convention may request that the Commissioner give an opinion as to the matter.

[16] Mr. Tory's request for an opinion is made under s.30(1) of the Act. The procedural requirements for s.30(1) complaint as set out in a directive issued by this office were followed in that the Complaint was supported by an affidavit sworn by Jeffrey Kroeker, Director of Research, PC Services.

[17] Sections 31(1) and (2) provide my jurisdiction to inquire into the alleged contraventions of the Act:

> 31. (1) When a matter is referred to the Commissioner under section 30, the Commissioner may conduct an inquiry, after giving the member whose conduct is concerned reasonable notice.
>
> (2) If the matter was referred by a member or by the Assembly,
>
> (a) the Commissioner may elect to exercise the powers of a commission under Parts I and II of the *Public Inquiries Act*, in which case those Parts apply to the inquiry as if it were an inquiry under that Act; and
>
> (b) the Commissioner shall report his or her opinion to the Speaker.

[18] Section 31(2)(a) permits me to invoke the Public Inquiries Act and thus to conduct the inquiry as if it were a public inquiry held under the Public Inquiries Act. I do not think that resorting to a s.31(2) Public Inquiry with the attendant expenditure of taxpayers' money is justified in the light of the allegations made and the Minister's response to them. In my view, the inquiry contemplated by s.31(1) will suffice.

[19] In its final incarnation the Complaint alleges breaches of ss. 2, 10 and 11 of the Act. They provide:

> **Conflict of interest**
>
> **2**. A member of the Assembly shall not make a decision or participate in making a decision in the execution of his or her office if the member knows or reasonably should know that in the making of the decision there is an opportunity to further the member's private interest or improperly to further another person's private interest.
>
> **Outside Activities**
>
> **10**. A member of the Executive Council shall not,
>
> (a) engage in employment or the practice of a profession;
>
> (b) engage in the management of a business carried on by a corporation; or
>
> (c) hold an office or directorship, unless holding the office or directorship is one of the member's duties as a member of the Executive Council, or the office or directorship is in a social club, religious organization or political party.
>
> **Investments**
>
> **11**. (1) A member of the Executive Council shall not hold or trade in securities, stocks, futures or
> commodities.
>
> **Exception**
>
> (2) Subsection (1) does not apply to assets and liabilities described in subsection 21 (4).
>
> **Management trust**
>
> (3) A member may comply with subsection (1) by entrusting the assets to one or more trustees on the following terms:
> 1. The provisions of the trust shall be approved by the Commissioner.
>
> 2. The trustees shall be persons who are at arm's length with the member and approved by the Commissioner.
>
> 3. The trustees shall not consult with the member with respect to managing the trust property, but may consult with the Commissioner.
>
> 4. At the end of each calendar year and at one or more intervals during the year, the trustees shall give the member a written report stating the value, but not the

nature, of the assets in the trust. The year-end report shall also state the trust's net income for the preceding year and the trustees' fees, if any.

5. The trustees shall also give the member sufficient information to permit him or her to submit returns as required by the *Income Tax Act* (Canada) and shall give the same information to Revenue Canada.

6. The trustee shall give the Commissioner copies of all information and reports given to the member.

7. The trust shall provide that the member may, at any time, instruct the trustees to liquidate all or part of the trust and pay over the proceeds to the member.

[20] In his response submitted by the Minister's counsel, Jack B. Siegel, the Minister contended that the Complaint did not pass the threshold imposed by s.31(5) of the Act since it was frivolous and vexatious or not made in good faith. Section 31(5) of the Act puts it in this way:

> 31. (5) If the Commissioner is of the opinion that the referral of a matter to him or her is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an inquiry, the Commissioner shall not conduct an inquiry and shall state the reasons for not doing so in the report.

I will discuss the Minister's s.31(5) submissions in the analysis section of this Report.

[21] I want to conclude this part of my Report by referring to sections 3 and 4 of the Act's Preamble. They provide:

> 3. Members are expected to perform their duties of office and arrange their private affairs in a manner that promotes public confidence in the integrity of each member, maintains the Assembly's dignity and justifies the respect in which society holds the Assembly and its members.
>
> 4. Members are expected to act with integrity and impartiality that will bear the closest scrutiny.

[22] An Act's Preamble may provide assistance in interpreting substantive provisions of the Act. The Members' Integrity Act is no exception. As Preamble (3) indicates, members are expected to arrange their private affairs in a way that will promote public confidence in their integrity. This is relevant to a Cabinet Minister's selection of a trustee for a blind or

management trust and to related obligations under the trust and the Act. In addition, Section 8 of the Interpretation Act confirms that an Act's Preamble may "…assist in explaining the purpose and object of the Act."

The Evidence

[i] The Events of April 29, 2005

[23] On April 29, 2005 Brett Kelly, Director of Research, PC Services, on his way to work at Queen's Park from his Dunville home, drove to the offices of the Chalmers Group of Companies at 6400 Northam Drive in Mississauga, Ontario. He arrived at about 7:30 a.m. and parked in a lot near the Chalmers offices.

[24] Mr. Kelly confirmed that his office had been informed by a "credible source" that the Minister would be at the Chalmers Group offices on April 29th. I do not know who the source of this information was. However, as it turned out, the source was correct about the Minister's attendance at Chalmers on April 29th.

[25] According to Mr. Kelly's affidavit, at about 8:11 a.m. on April 29, 2005, the Minister and his wife arrived by car at Chalmers and entered the Chalmers offices together. At about 10:00 a.m. Jeffrey Kroeker, P.C. Special Legislative Advisor, Health and Long-Term Care, joined Mr. Kelly. Both said that at approximately 10:52 a.m. the Minister left the Chalmers office building and spoke on his mobile telephone for about 10 minutes. He then re-entered the building. According to Messrs. Kelly and Kroeker at 11:20 a.m. the Minister and two males came out of the side door of the Chalmers building where they appeared to be talking as they pointed to the back of the building. There is no evidence as to what they were talking about. The suggested inference is that it likely had something to do with the building. About two minutes later a Ministry car arrived at Chalmers. Within a short time, the Ministry car left. It returned at about 11:30 a.m. to pick up the Minister.

[26] The evidence also discloses that the Minister attended the Chalmers office on December 17, 2004 for the Annual General Meeting of his Riding Association and that Mr. Jeyanayangam was elected Treasurer of the Riding Association at that meeting. Finally, there is undisputed evidence that Chalmers provided a parking place at its offices for the Minister. The parking place was signed "H.T.". It was adjacent to Mrs. Takhar's parking place signed "B.T.".

[ii] The Minister's Response

[27] The Minister's response to Mr. Tory's allegations was delivered on June 29, 2005 by Jack Siegel, the Minister's counsel. In addition to contending under the heading, "Preliminary Objection" that the allegations should be peremptorily dismissed as frivolous and vexatious, in the alternative, the Minister, through his counsel, submitted that at no time before or after the Minister's appointment to the Executive Council had he been engaged in the management of any of the Chalmers Group of Companies. He also submitted that at all times his relationship with Mr. Jeyanayangam, his management trust trustee, was an arm's length relationship as required by the Act. The Minister acknowledged that he was at the Chalmers offices on December 17, 2004 (for the Riding Association meeting) and on April 29, 2005 (for the meeting with Mrs. Takhar and Mr. Jeyanayangam). He also acknowledged that he had, but did not use, a reserved parking place at Chalmers where he held the title of President and CEO before his appointment to the Executive Council.

[28] In his written submissions Mr. Siegel explained that the Minister had purchased his initial interest in the Chalmers Group of Companies in 1992. He had a controlling interest in Chalmers, however, after 1992 he did not work on a full-time basis for any of the Chalmers Group of Companies. At relevant times before the October 2003 election he was employed on a full-time basis by the Peel District School Board. In spite of the fact that the Minister did not work for or at the Chalmers Group of Companies, he held the title of President and CEO of the companies. After the Minister's appointment to the Executive

Council he relinquished those positions. At that time, Mrs. Takhar became President and CEO of The Chalmers Group of Companies.

[29] Through his counsel, the Minister described his trustee, Mr. Jeyanayangam, as "a long standing acquaintance". The Minister correctly noted that when he proposed to appoint Mr. Jeyanayangam as his trustee I approved the appointment under s.11(3)2 of the Act.

[30] In his response to the substance of the allegations the Minister asserted that in the Spring of 2005 he and his wife faced the prospect of paying for their younger daughter's university education starting in September 2005. The Minister stated that because of difficulties in arranging a time for discussion about university-related matters he and his wife decided to meet at Chalmers on a work day when both of them were free. As to Mr. Jeyanayangam's attendance at the meeting, through his counsel the Minister stated:

> It was also decided, at the time that the meeting was being set up, that Mr. Jeyanayangam [the Minister's trustee] would be asked to attend, since he was in control of the assets from which the education would be paid for.

[31] The Minister said that he arrived at the Chalmers offices shortly after 8:00 a.m. and that the meeting began at approximately 8:30 a.m. He added that Mr. Jeyanayangam kept notes of the meeting at his request. In his response the Minister's counsel referred to Mr. Jeyanayangam's notes in this way:

> Notes of that meeting were kept by Mr. Jeyanayangam at Minister Takhar's request, both in order for there to be a record of these communications between the Minister and the trustee, and so that there would be a record of what financial needs might arise from the educational options under consideration.

[32] The meeting continued for over two hours according to the Minister's response. During the meeting it was revealed that the most expensive university option under consideration would involve the Minister's daughter's university education in the United

Kingdom at a cost of about $60,000 a year. Mr. Jeyanayangam advised the Minister and his wife that the cost of a university education in Canada could be handled without difficulty but the more expensive UK university education option would require some liquidation of assets.[4] After the meeting the Minister had lunch at Chalmers with his wife and then left shortly after 11:30 a.m. in a Ministry car.

[33] The Minister's response also dealt with the sections of the Act specifically referred to in Mr. Tory's allegations. For purposes of this Report I will focus on sections 10 and 11.

[34] Section 10 prohibits members of the Executive Council from engaging in the management of a business carried on by a corporation. The Minister's response emphasized the presence of affirmative evidence of what was discussed at the April 29th meeting at Chalmers and the absence of any competing evidence, particularly the absence of any evidence that on April 29th, or at any time after his appointment to the Executive Council, had the Minister engaged in the management of any Chalmers company. The Minister further submitted that the presence of a marked parking place for him at Chalmers does not constitute evidence of management.

[35] Section 11(1) of the Act prohibits members of the Executive Council from holding or trading in securities. Section 11(3) presents a Minister with an option to the mandatory divestiture of assets which the Minister cannot hold or trade because of the provisions of s.11(1). This is the Management Trust option addressed with particularity in s.11(3)1–7.

[36] In addressing the s.11 aspects of Mr. Tory's allegations the Minister emphasizes that he relied upon s.11(3) of the Act by placing his assets, including his controlling Chalmers shares, in a management trust and that I approved the provisions of the trust (s.11(3)1) and the identity of the trustee (s.11(3)2).

[4] As it turned out the Minister's daughter decided to attend McMaster University in Hamilton.

[37] In his written submissions for the Minister Mr. Siegel contends that s.11 of the Act does not preclude the type of communication that occurred between the Minister and his trustee at the April 29th meeting. Mr. Siegel put that proposition in this way:

> The only communication that has in fact taken place here, is that the Minister advised the trustee of the potential need for large sums of money in order to provide for the education of his youngest daughter, and the trustee indicated that this was possible, albeit with a potential need to reallocate some assets.
>
> It is respectfully submitted, therefore, that the nature of the communication that took place is not at all precluded. It is, in fact, a necessary incident of the Minister's right to instruct the trustee to liquidate trust property, that the Minister be able to make the need for resources known, and obtain the reassurance of the trustee that the identified need may be met.

[38] The Minister submitted that Mr. Jeyanayangam's election as Treasurer of the Minister's Riding Association did not detract from, or interfere with, his arm's length relationship with his trustee. Indeed, Mr. Siegel took specific issue with what he contended was the implication in the Complaint that it was inappropriate for Mr. Jeyanayangam to assume the role of Treasurer of the Minister's Riding Association. I will deal with the substance of the allegation shortly. For now, I leave that issue by observing that it seems to me that the issue raised by the Complaint is a breach of s.11 of the Act by the Minister, not by Mr. Jeyanayangam.

[39] Mr. Siegel's written response for the Minister was supported by affidavits from the Minister, his wife and Mr. Jeyanayangam, his trustee. These affidavits provide the factual basis for the Minister's submissions which I have generally reviewed above. Accordingly, I will limit my review of these affidavits to summarizing their relevant content.

[40] In his affidavit the Minister stated categorically that before his election to the Provincial Legislature in October 2003 he was a full-time employee of the Peel District School Board employed as Associate Director, Corporate Services. He also stated that since 1992:

> I have held an interest in the five (5) operating corporations known as the Chalmers Group of Companies (Chalmers Group), I have not, since that time been employed with or by any of these companies, or any of the corporations involved in the management and holding structure thereof, nor have I otherwise engaged in the management of any of these companies on a full-time basis. I was, however, employed there in 1978-1979 as Divisional Controller, when it was under prior ownership.

[41] The Minister explained that before his election to the Legislature he was President and CEO of each of the Chalmers companies, however, he had no "active management role". After his October 2003 election, the Minister resigned as President and CEO and Mrs. Takhar assumed those executive positions at the Chalmers companies as I have indicated. Upon his appointment to the Executive Council the Minister transferred his controlling shares in the companies to a management trust.

[42] In his affidavit the Minister also stated that in addition to his April 29, 2005 visit to the Chalmers offices he had been at the Chalmers premises "on a number of other occasions that I can recall". He specifically referred to the December 17, 2004 Riding Association Annual General Meeting, visits on April 22 and May 24, 2005 and to the fact that he had dropped his wife off at the Chalmers offices "a few times". The Minister made it clear that none of these visits involved anything in the way of managing any of the Chalmers companies.

[43] Lastly, the Minister stated that although his Riding Association "is important to me politically", he is not "overly involved" in the Riding Association. He stated that he did not know that Mr. Jeyanayangam was about to be nominated as the Riding Association's Treasurer, however, he was made aware of Mr. Jeyanayangam's election on December 17, 2004, once he arrived at the Riding Association meeting.

[44] In her affidavit Mrs. Takhar confirmed that after the Minister's appointment to the Executive Council she became President and CEO of the Chalmers companies; however her duties remained unchanged according to her evidence. She stated that there was a designated parking place at the Chalmers offices signed "H.T.". Her adjacent parking place

was signed "B.T.". On the subject of parking places she said, "After he became a Cabinet Minister, it never occurred to me to have his initials taken off." She confirmed that the Minister was not engaged in the management of Chalmers at any material time.

[45] In his affidavit Mr. Jeyanayangam confirmed that the Minister and other investors purchased Chalmers Suspensions International in 1992. Mr. Jeyanayangam joined the Chalmers companies in 1993. With respect to the Minister's involvement in the management of these companies Mr. Jeyanayangam stated in his affidavit:

> ...he has never, to the best of my knowledge, worked for this or any other of the companies that comprises the Chalmers Group. I myself came on as an employee in March of 1993, and throughout all this time, Mr. Takhar has effectively been an absentee owner of all of the companies.

[46] Mr. Jeyanayangam further stated that he attended the Minister's nomination meeting held sometime before the October 2003 Provincial election. When the election was called the Minister asked Mr. Jeyanayangam to be his CFO for the election campaign and Mr. Jeyanayangam willingly accepted.

[47] As previously noted, Mr. Jeyanayangam acknowledged that on December 17, 2004 he was elected Treasurer of the Riding Association. He was also the Minister's CFO for purposes of the Election Finances Act until April 2004. He confirmed in his affidavit the subject matter of discussions at the April 29, 2005 meeting was as set out in the notes that he took at that meeting.

[48] Mr. Tory's reply to the Minister's response was received on July 13, 2005. It presented new evidence, if not new issues. The new evidence included evidence that:

- The Minister's Riding Association uses the Chalmers Group offices as its official address.

- In a June 15, 2005 column by Christina Blizzard entitled "How long is the arm?" the Minister was quoted as saying, "I was never actually involved in this business, ever".
- The Minister's website biography states that:

> In 1995, one of the Chalmers Group of Companies, headed by Mr. Takhar, was recognized by the Financial Post as a finalist among Canada's 50 Best Managed Private Companies. The company was also given the Outstanding Business Achievement Award (OBAA) by the Ontario Chamber of Commerce in 1999.

- The Minister acknowledged in a Globe and Mail interview with Karen Howlett that he had nothing to do with the election of Mr. Jeyanayangam as Treasurer of his Riding Association, however, as quoted by Ms. Howlett the Minister agreed that he should have reported this fact to the Integrity Commissioner. He said:

> I wasn't aware of that requirement obviously there are many rules to follow. If I knew there was a rule I needed to inform them I would have done it.

[49] On September 28, 2005 my office received a large number of documents from Mr. Kelly. These documents included productions in a civil action commenced in 1997 (and apparently settled in 1998) in which the Minister and others, including Mr. Jeyanayangam, were defendants. The plaintiff is the Minister's uncle. I think that it is safe to say that the plaintiff in that action made these documents available to the Complainant who quite properly made them available to me.

[50] Since I considered that some of these documents could be material to issues raised in the Complaint I felt that I should give all of them to Mr. Siegel, the Minister's counsel. Mr. Siegel completed his review of the documents to which I have referred to and submitted his response on November 2, 2005.

[51] The material to which I refer included correspondence, minutes of Chalmers' Board and shareholders' meetings, among other things. All of this material concerned matters occurring in the mid-1990's, that is well before the October, 2003 election and the

Minister's appointment to the Executive Council. The corporate records did reveal that in 1992 through 1994, the Minister was actively involved in shareholders' and directors' meetings and that he was paid for his 'consulting services'. The material to which I refer also revealed that Mr. Jeyanayangam, by then Chalmers' Comptroller, received a letter which set out what Ernst and Young thought the Minister should be paid for his services ($200 to $300 an hour). This letter stated that the opinion as to an appropriate hourly rate has been requested by the Minister.

[52] This evidence is relevant only on the issue of credibility. It suggests that some years ago, the Minister did work for Chalmers and that he was paid for it. This is somewhat at odds with the evidence of Mrs. Takhar and Mr. Jeyanayangam, both of whom suggested that the Minister never worked for Chalmers. The Minister himself generally referred to working at Chalmers with an "on a full-time basis" qualifier.

[53] Lastly, on December 21, 2005, I received the requested information about any emails between the Minister's offices and Chalmers. None of them provided evidence that the Minister was engaged in the management of a business carried on by a corporation.

[54] In the course of the inquiry contemplated by s.31(1) of the Act, I met with and questioned those persons who are referred to in Appendix "B" of this Report.

[55] Those interviewed included Messrs. Kelly and Kroeker who saw the Minister at Chalmers on April 29th, the Minister's wife, Balwinder Takhar and Mr. Jeyanayangam, the Minister's trustee. Their responses to questions relevant to the inquiry generally accorded with their affidavits and the submissions on the Minister's behalf by his counsel. I will, therefore, limit my comments on their answers to questions put to them.

[56] When I first met with the Minister, he confirmed that he never had a day-to-day operational involvement with the Chalmers Companies. He put it in this way:

> Q: Before you were elected what involvement on a day-to-day operational basis did you have with the Chalmers companies?

A: No day-to-day involvement at all. I've never had day-to-day involvement. Even when I bought this company I had the understanding that the people who managed the company at that point of time…even my wife was not involved at that time…that they would manage it.

Q: Sorry, who would manage it?

A: The managers. The understanding that I had with them was that they would manage the company and so long as they made their plans every year I would have no involvement.

Q: And this was before you were elected?

A: Before I was elected, when we bought it, right from the beginning.

Q: When did you buy the company?

A: It was 1992.

Q: OK

A: In 1992 we bought the company and my wife started there in 1998. You would be surprised, she had no clue how big the company was, how many employees we had, what we did at that time. So, that's the extent of the involvement we had. None of us had any involvement.

Q: Leading into or up to the 2003 election, that is before the election, you're telling me you had no involvement?

A: I had no involvement, I had a full-time job.

…

Q: The material that's on your website refers to the Chalmers Group of Companies and, to put it bluntly, you seem to be claiming credit for awards that you received consequent upon Chalmers being listed as among Canada's top 100 best management private companies. There is significant reference on both the Liberal website and your website to that effect. There is a bit of a disconnect with that and somebody who had nothing whatever to do with the management of those companies.

A: I still have the title of the President and CEO of that company and I am still the majority shareholder of that company. The only involvement I had was when we bought this company and we restructured it, actually even before we bought the company, I said this is what we're going to do if we buy this company and we sat with the management and said we will discuss….

Q: OK, but what you're telling me is, assuming credit is going to be handed out for the management of the company as opposed to the decision to buy it and that sort of thing…

A: I had no involvement on the day-to-day management of the company…

Q: You had no operational involvement…

A: No operational responsibilities at all, ever.

[57] When he was asked about the April 29, 2005 meeting at Chalmers, also attended by Mrs. Takhar and Mr. Jeyanayangam, the Minister steadfastly maintained that the purpose of

the meeting was to discuss his younger daughter's university education and most importantly, how it would be paid for. When asked why this matter could not have been discussed with his wife at home, the Minister said,

> Q: I don't want to sound cynical about this but it would be different if this was somebody who lived in Markham and you lived in Mississauga or wherever. Couldn't you discuss this kind of stuff at home? That's what most people do.
>
> A: What we needed to do was we needed to find out where she wanted to go and some of those issues involved a considerable amount of expenditures. What I said to her was look, all my assets are in the blind trust, there is no way I can give you a yes or no about the issue whether we can afford sending her to Scotland or not. I wanted to find out exactly how much it will cost and whether we can even afford to do it or not. Some of those expenditures that we were talking about was 30,000 pounds in fees and about 10-12,000 pounds in living expenditures so all together in my own mind I was thinking about $100,000 in expenditures a year from after tax income which I could not afford on my ministerial salary or even from a combined salary for that matter. So, somewhere I thought if we want to make this decision we need to be sure we can afford this. That's what led to this decision. I said why don't we get together and talk about this and obviously I thought Joseph should be in this so that he can see that we have to send my daughter to university, that he is aware right from day one about this issue.

[58] When he was asked to comment on the evidence of Messrs. Kelly and Kroeker, that he was seen talking to two male persons outside the Chalmers' offices near the side door, the Minister responded in this way,

> Q: There was evidence from the two men who were outside watching the business premises who saw you coming out talking on the cell phone. I think there's a photograph of that, and also going out I'm not sure precisely where but around the side of the building or somewhere in the presence of two other persons who they assumed were employees and gesturing towards the roof or somewhere up above. What's that all about?
>
> A: Actually, I have struggled with that for a long time about what that was all about. I was supposed to leave and the wife said, have some lunch. Then I said I need to find out if my driver is outside or not. So we went through the side door, which is beside the cafeteria and outside, the only thing I can think that I was saying is that when I first came to Canada I used to work in this area. That's the only thing I can ever remember saying or doing. When I came to Canada in '74 I used to work in the same area that this factory is in. I said that my factory used to be in this area…
>
> Q: Who were the people you were talking to?
>
> A: Just my wife and Joseph…
>
> Q: No, these were other people…
>
> A: There were no other people. I do not know of any other people.
>
> …
>
> Q: So, from your standpoint, you were talking to your wife and Joseph?

A: Yes, there was nobody else. They were with me when I said that I need to see my driver…

[59] Mrs. Takhar confirmed that although the Minister was listed as President and CEO of the Chalmers Companies until his election in October 2003, he never worked there. She also said that the Minister asked Mr. Jeyanayangam to take notes and that he was a mere observer at the meeting. The questions and answers on these subjects went as follows:

Q: You are now the President and CEO of Chalmers and before the election your husband was President and CEO. He was also a director of the companies.

A: Yes, I was the director and manager of services.

Q: What did he get paid?

A: Nothing – just a name. He never worked at Chalmers.

Q: What did he contribute to Chalmers?

A: Nothing – same for 20 years.

Q: Did he ever attend meetings of directors?

A: No.

…

Q: Did the Company engage in five-year planning?

A: Before his election he came to discuss the strategy but not the day-to-day business.

Q: Before the election?

A: I didn't have the title, but I ran the companies.

…

Q: The meeting of April 29th was held at the business premises in the boardroom. Why was it held?

A: My daughter applied to go to university. Had applied to many universities and wanted a decision. Deadline dates were coming up. Harinder's schedule never had any time to discuss. I put my children first and wanted the choice to be right. Her long term goals are to be a doctor. We visited some universities by myself. Life changed since he became elected. His parents live with us. His father is not well. Never time. I wanted no interruptions so we met at Chalmers.

Q: Why not discuss this at home.

A: I go to bed at 11:00. He is always late.

…

Q: You were discussing locations, tuition. For purposes of this discussion, what really did Joseph have to do with this?

A: He was a silent observer. Only when eating lunch he communicated his experience in the UK. He took notes. No other.

...

Q: Joseph took notes.

A: Harinder asked him to take notes, in case the UK was the decision.

...

Q: Joseph participated?

A: Just an observer.

...

Q: When he took notes, he didn't give you a copy?

A: No, he always took notes at Chalmers meetings.

[60] At my July 19, 2005 meeting with him, Mr. Jeyanayangam confirmed his attendance at the April 29th meeting at Chalmers, the subject matter of the discussion at that meeting and that the Minister asked him to take notes on what was discussed at the meeting. When asked when he made his notes at the meeting, Mr. Jeyanayangam responded:

Q: When did you make the notes?

A: From 8:30 to 11:00. When he went out, I was completing the notes and finished them. I always take minutes as secretary for 10 or 11 companies. In this case, I just finished it and put it in the file.

Q: What file?

A: I have a folder. I have all documents.

Q: What is in it?

A: Notes. Information to give to you, letters to Lynn Morrison in March 2004.

[61] As to the purpose of the meeting, Mr. Jeyanayangam said:

Q: It seems strange this meeting would have taken place at all. It can be argued families make these decisions every day. Why did you have to have this meeting in the first place?

A: Because of the funds. He may need the money.

Q: Could he not have had a discussion with his wife and daughter by picking up the phone and calling you.

A: Only Mrs. Takhar -- he comes always late and we cannot talk properly and he is always doing work.

[62] On August 24th, I met with the Minister's regular driver, Earl McKinnon. He confirmed that he picked up the Minister at Chalmers on April 29, 2005 late in the morning and that he had attended the Riding Association Annual General Meeting held at Chalmers on December 17, 2004. On December 17th, Mr. McKinnon said that he arrived at 6:30 or 7:00 p.m. Those in attendance were then in the process of eating. He had been invited, not to participate in the meeting, but to be recognized for his "30 years of service". Mr. McKinnon left at about 8:00 to 8:30 p.m.

[63] When he was asked about the Ministry scheduling system, Mr. McKinnon said that meetings such as the Riding Association Annual General Meeting would not be recorded on the Minister's schedule. He explained that only matters requiring the Minister's attendance as Minister would be recorded on the Minister's schedule. He said, "They try to keep ministerial and constituency separate." He added, "If it's constituent or non-Ministerial, it goes on a separate [schedule]."

[64] On July 21, 2005, I met with Christina Blizzard, the Toronto Sun Queen's Park reporter who had written on the subject of the Minister's attendance at Chalmers on April 29, 2005. The purpose of this meetconfirm that comments attributed to the Minister in the several Toronto Sun columns written by Ms. Blizzard were statements made by the Minister and that they were accurate. This confirmation was at least desirable, if not necessary, since it is well established that media comments do not constitute admissible evidence in most circumstances. In the course of the meeting, Ms. Blizzard provided the required confirmation.

[65] I also interviewed the Minister's scheduler, Muriel Alvarez. She confirmed that the Minister's schedule separated personal, constituency and ministerial scheduling matters. The Minister's schedule showed no attendances at Chalmers.

[66] I also have considered material that confirms that in addition to being elected as Treasurer of the Minister's Riding Association, Mr. Jeyanayangam was the Minister's Chief Financial Officer for purposes of the October 2003 election. In that capacity, on March 30, 2004, Mr. Jeyanayangam filed a statutorily required report setting out a statement of assets and liabilities as at January 2, 2004 as related to the October 2003 campaign and election. The statement to which I refer was signed by the Minister on March 31, 2004. Mr. Jeyanayangam involvement as CFO under the Election Finances Act ended some time before May 2004.

Analysis

[i] The Burden and Standard of Proof

[67] As a general proposition, a member who contends that another member has contravened the Act must establish the allegations asserted in the member's complaint. That is to say a member who accuses another member of contravening the Act bears the onus of proving the breaches alleged in the member's complaint. There may, of course, be circumstances where the evidence is so clear and compelling that the target of the Complaint may be required to respond, that is lead evidence to rebut the allegations made.

[68] Allegations of breaches of the Act may have serious consequences, both under the Act and politically. Thus, I think allegations such as those raised here must be established by clear and convincing evidence, a standard between the civil balance of probability and the criminal beyond a reasonable doubt standards of proof.

[69] In making findings of fact I can accept all parts or none of the evidence tendered. I can also draw reasonable, not speculative, inferences from evidence that I accept.

(ii) Are the allegations frivolous and vexatious, or not made in good faith?

[70] I see absolutely no basis upon which to accede to Mr. Siegel's submissions that the Complaint be dismissed as frivolous and vexatious or not made in good faith. The allegations made as related to ss. 10 and 11 of the Act require an answer or an explanation. This complaint is manifestly not frivolous and vexatious or made in bad faith.

(iii) Section 2 of the Act

[71] I see no merit in the contention that the Minister may have breached s.2 of the Act. Section 2 prohibits members in making a decision from preferring the member's (or another's) private interests. Put in the context of the allegations made, a breach of s.2 would be established if the Minister used information to which he was privy as a Cabinet Minister to benefit one or more of the Chalmers companies, himself or a third party.

[72] In my opinion, there is no evidence, direct or circumstantial, upon which I could find that the Minister breached s.2 of the Act. Indeed, the Complaint itself goes no further than to suggest that the Minister may have breached s.2. The "may" standard is not enough. There must be evidence, direct or circumstantial, establishing the breach of the Act alleged. I would not give effect to the Complaint's allegations as related to s.2.

(iv) Sections 10 and 11

[73] Before I deal with the evidence as related to ss. 10 and 11, I should say something about what I think the purpose of those sections is.

[74] Section 10 prohibits a member of the Executive Council from outside employment, management of a business carried on by a corporation and from holding an office or directorship.[5]

[75] I should make it clear here that, in my view, in determining the scope of the s.10(b) management of a business prohibition, 'management" does not require full-time employment. It merely requires proof that a Minister has in some way become involved with a business in such a way as to exercise a management function.

[76] The restrictions on a Cabinet Minister's outside activities seem to me to have two underlying purposes. First, the legislature wanted to avoid placing members of the Executive Council in conflict, or apparent conflict, circumstances such as might occur if a Minister were, for example, engaged in the management of a business, the prosperity of which could be affected by decisions made at the executive level of government and by information available to members of the Executive Council that may not be available to the public or even members generally.

[77] Second, sections 10, 11 and 12 of the Act also recognize that being a member of the Executive Council is a full-time job. Thus, the Legislature prohibited Cabinet Ministers from engaging in the management of a business, employment, etc.[6]

[78] The legislature chose to alleviate the harshness of the Act's provisions prohibiting cabinet ministers from engaging in employment or management of a business carried on by a corporation, partnership or sole proprietorship by permitting ministers to have management trusts[7] on terms set out in sections 11(3) and 12(2). The management trust option provides an alternative to forced divestiture.

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[5] Section 12 (which is not applicable here) prohibits a member of the Executive Council from carrying on business through a partnership or sole proprietorship.

[6] The same prohibition does not apply to members of the Legislative Assembly from engaging in outside activities. (See s.9 of the Act), although, as a practical matter, it is rare that members of the Legislative Assembly are able to generate income apart from their salaries.

[7] In practice ministers have either blind or management trusts. Management trusts are used where the minister has a business, as opposed to assets such as 'securities, stocks, futures or commodities', which may be traded as thought advisable. Where, as here, the minister owns an interest in a business he will necessarily know the nature of the assets in his trust. Blind trusts are used when the Minister's

[79] The s.10 prohibition against ministers engaging in the management of a business (or employment or the practice of a profession) is absolute in the sense that no management trust that complies with the Act may permit a minister to engage in the management of a business. A management trust becomes relevant, as I interpret the Act, where a minister's shares in a business are in an approved management trust, with the trustee approved by the Integrity Commissioner. Then, what amounts to deemed compliance with s.11(1) (which, among other things, prohibits a minister from holding securities) is secured. The trustee in those circumstances holds the Minister's shares in the business in trust in accordance with the provisions of the applicable management trust agreement, and of course, the Act. Clearly, the purpose of the management trust provisions of the Act is to avoid mandatory divestiture of a minister's interest in a business carried on by a corporation, partnership or sole proprietorship.

[80] Management trusts will, of course, vary in their terms. However, all management trusts involving the shares of a business carried on by a corporation must comply with the applicable terms of s.11(3) of the Act. In addition, both the Minister and the trustee must, at a minimum, comply with s.11(3), which sets out both obligations and rights of the minister. For example, s.11(3)3 explicitly prohibits a trustee from consulting with the minister about managing the trust property. Section 11(3)7 permits a minister to instruct his trustee to liquidate all or part of the trust property and pay the proceeds to the minister.[8] In my view, s.11(3)7 does no more than permit a minister to secure funds from the sale of trust assets where the minister requires the money. It does not permit the minister to manage the trust assets or determine which assets are to be sold.

[81] No control system for ministers short of mandatory divestiture is bombproof. Here, the Minister's business circumstances illustrate the point. The Minister is married to the Chalmers' current President and CEO. If he was inclined to share his views on the

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assets consist, for example, of shares or bonds issued by publicly traded companies. For present purposes, the distinction between blind and management trusts is of no consequences.

[8] For reasons that are not clear to me, the legislature chose not to include the s.11(3)7 liquidation option in s.12(2) which concerns management trusts involving interests in a partnership or sole proprietorship.

management of any of the Chalmers' companies, he could do so without leaving home and no one would likely know about it.

[82] That brings me to the specific contraventions of the Act referred to in Mr. Tory's Complaint. I have already said that the evidence does not establish that the Minister breached s.2 of the Act. In the circumstances, therefore, it seems to me that the core questions that have to be answered are:

- Did the Minister engage in the management of any of the Chalmers Companies after his appointment to the Executive Council?
- Were the Minister and Mr. Jeyanayangam, his trustee, in an arm's length relationship at material times?

[83] In answering the management question, one has to look at some rather unusual facts in light of the fact that the Minister has advanced an – "I never worked at or managed any of the Chalmers Companies, so, why would I start now?" defence theme.

[84] As I have noted, there is evidence to support his central contention. According to the Minister, his wife and his trustee, although the Minister was President and CEO of the Chalmers Companies until his appointment to the Executive Council and although he had a designated parking place at Chalmers, was a director and President and CEO, as Mrs. Takhar put it, he "had hardly any involvement in the business of Chalmers Group and was rarely present there, having a full-time job elsewhere. … This did not change after the election, other than I took on the title of President and Chief Executive Officer."

[85] There is no doubt that the Minister did relinquish his titles as President and CEO of the Chalmers Companies, although not his parking place, upon his appointment to the Executive Council. I refer to the Minister's titles as opposed to his positions simply because the Minister never exercised the functions of President or CEO of Chalmers in any operational way according to his evidence and that of Mrs. Takhar and Mr. Jeyanayangam.

[86] I recognize that there is something of a disconnect between that stated set-up and the Minister's website biography which refers to the Chalmers companies "headed by Mr. Takhar" as a finalist among Canada's best managed private companies. I also recognize that if Mrs. Takhar is to be believed, until his appointment to the Executive Council, the Minister was a director of the Chalmers companies but never attended director's meetings. In addition, the evidence from the law suit started by the Minister's uncle establishes that, at least in the capacity of a consultant, the Minister worked for the Chalmers Companies and that he did attend directors' meetings. I give little weight, however, to this evidence because it focuses on circumstances existing at the latest in the mid-1990's. It does, however, undercut the evidence of Mrs. Takhar and Mr. Jeyanayangam, both of whom stated that the Minister "never" worked at Chalmers.

[87] As I have said, Mr. Jeyanayangam produced notes that he said he took during the course of the April 29th meeting. I have annexed a typed version of Mr. Jeyanayangam's notes and a handwritten version as Appendix "A" to this Report. I am skeptical as to the legitimacy of these notes. Perhaps my skepticism is in part caused by my concern as to why this meeting at Chalmers was held in the first place and why Mr. Jeyanayangam was invited to participate. Mr. Jeyanayangam's notes are in some respects detailed and in other respects somewhat vague. After the meeting had concluded, for reasons that I find somewhat bewildering, Mr. Jeyanayangam concluded his notes by referring to Mrs. Takhar making lunch arrangements, the Minister going out to make some mobile phone calls and to the fact that Mr. Jeyanayangam went out to the parking lot with the Minister. Obviously, Mr. Jeyanayangam took some time after the meeting was concluded to complete his notes.

[88] Notwithstanding my skepticism about Mr. Jeyanayangam's notes, having regard to the standard of proof – clear and convincing evidence – I am not satisfied that the evidence establishes that the Minister was engaged in the management of a business carried on by a corporation. There is, however, no doubt that the Minister was egregiously reckless in participating in the April 29th meeting at Chalmers. He virtually invited a complaint by his conduct.

[89] Any inferences that I might draw from evidence that I accept must not be speculative. It seems to me that were I to conclude the Minister engaged in the management of a business, particularly on April 29th, I would be trespassing on the ground of speculation. I can find no more than an error in judgment, that is negligence, on the Minister's part. I therefore conclude this aspect of the Complaint has not been established.

[90] This brings me to the trustee issue. The Act makes it clear that a Minister's trustee must be someone who is at arm's length with the Minister. There are several definitions of arm's length contained in jurisprudence where that relationship has been discussed. I think, in the circumstances, that the definition set out in Mr. Tory's material is applicable. Arm's length is there defined as a relationship in which there are "no bonds of dependence, control or influence, in the sense that there is no moral or psychological leverage sufficient to diminish or possibly influence the free decision-making of the other."

[91] In practical terms, the statutory requirement that a Minister's trustee be at arm's length with the Minister means that the trustee will have no relationship beyond *de minimus*, with the Minister apart from the trustee's duties under the trust agreement.

[92] In December, 2003, I approved the terms of the Minister's Management Trust and Mr. Jeyanayangam's nomination as trustee. Provided that I was given all of the relevant facts, that approval gives the Minister a complete defence. At the time of the approval to which I refer, I was advised that the Minister had never had any operational involvement with any of the Chalmers Companies and that those companies were the Minister's wife's companies. I was not advised of the fact that Mr. Jeyanayangam was the Minister's CFO for purposes of the Election Finances Act during the course of and after the October, 2003 provincial election. This made Mr. Jeyanayangam the Minister's agent at least for purposes of the CFO's duties as set out in the Election Finances Act. More importantly, in December of 2004, Mr. Jeyanayangam was elected as Treasurer of the Minister's Riding Association. My office was not advised of that fact.

[93] Mr. Siegel has gone to considerable length to suggest that the term "agent" is no longer part of the operative vocabulary in the context of the relationship between a candidate and the person who is now referred to as the candidate's CFO. That may be, however, it is the substance of the relationship between the Minister and his Election Finances Act CFO, not titles, which is important to me. As CFO, Mr. Jeyanayangam owed a duty to the Minister to represent the state of his finances fully and accurately. He owed a duty of loyalty to the Minister. The fact that he owed a public duty at the same time does not in any way dilute the nature of his relationship with the Minister. Beyond that, when Mr. Jeyanayangam was elected Treasurer of the Minister's Riding Association, the relationship between him and the Minister could hardly be viewed as anything coming within the ambit of any accepted definition of an arm's length relationship. In that capacity, he owed a duty of loyalty both to the Association and to the Minister.

[94] In my view, although there is nothing explicit in the Act about it, members of the Executive Council must inform this office and seek further approval of a trustee if the relationship between the Minister and trustee changes in any material way after the initial approval of the trustee. If that were not the case, the provisions of s.11 of the Act as related to management trusts, would make little sense. As the Act puts it, a Trustee "shall be persons who are at arm's length…" Nor would the spirit infusing the Preamble of the Act be properly recognized. Consistent with Preamble (3), members are expected to arrange their private affairs in a manner that promotes public confidence. I accept that an Act's Preamble does not impose substantive obligations. The Preamble does, however, inform the interpretation to be given to the approval of trustees as referred to in s.11 and 12 of the Act. The trustee must be a person who is at arm's length with the Minister, on an on-going basis.

[95] The relationship between the Minister and Mr. Jeyanayangam failed the test set out above once Mr. Jeyanayangam became treasurer of the Minister's Riding Association and before that when he assumed the position of CFO for the Minister under the Election Finances Act. Thus, I conclude that the Minister has breached s.11 of the Act and parliamentary convention associated with the establishment of management trusts by allowing Mr. Jeyanayangam to continue as his trustee after he became treasurer of his

Riding Association and by failing to disclose that Mr. Jeyanayangam was his CFO under the Election Finances Act.

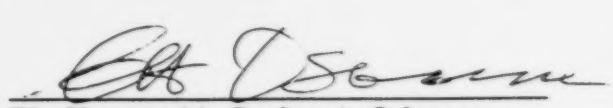
[96] Section 34 of the Act deals with penalties. It provides:

> (1) Where the Commissioner conducts an inquiry under subsection 31 (1) or (2) and finds that the member has contravened any of sections 2 to 4, 6 to 8, 10 to 12 or 14 to 18, has failed to file a private disclosure statement or a statement of material change within the time provided by section 20, has failed to disclose relevant information in that statement or has contravened Ontario parliamentary convention, the Commissioner shall recommend in his or her report,
>
> (a) that no penalty be imposed;
> (b) that the member be reprimanded;
> (c) that the member's right to sit and vote in the Assembly be suspended for a specified period or until a condition imposed by the Commissioner is fulfilled; or
> (d) that the member's seat be declared vacant.

[97] It is imperative that Ministers take their obligations under s.10, 11 and 12 of the Act seriously. Those obligations include having a trustee, where applicable, who is in an arm's length relationship with the Minister. Although I regard this as a serious matter, I have to recognize that the Minister did not go about intentionally trying to short-circuit the system. I accept his statement that had he realized that his arm's length relationship with Mr. Jeyanayangam was compromised, he would have taken steps through this office to straighten things up. I also recognize that in circumstances like this, there is a political price that sometimes has to be paid. Since this is a matter of first impression, I think it would be unfair to sanction the Minister beyond issuing a reprimand under s.34(1)(b). Upon the filing of this Report with the Speaker, that reprimand will be duly recorded.

[98] Lastly, steps will have to be taken in the immediate future to remove Mr. Jeyanayangam as the Minister's trustee and to replace him with a trustee who is at arm's length with the Minister.

DATED At Toronto this 4th day of January, 2006.



The Honourable Coulter A. Osborne

APPENDIX 'A'

4/29/05

April 29, 2005 Meeting Notes

- Mr. H. Takhar, Balwinder Takhar and I met in the Boardroom around 8:30 a.m. The meeting was about their younger daughter's plans to seek admission to University / College in 2005

- Balwinder indicated that Sherandeep was actively considering six to seven universities / colleges in Canada and abroad.

- Both of them discussed the following issues.

    - Location of the university
    - Reputation of the university / college
    - Programme structure and long term prospects
    - Course fees – Residence fee – all costs
    - Daughter's preference

- The pros and cons of the above issues discussed in greater length

- The financial impact $14K to 60K per annum. I was asked by Mr. Takhar whether this cost could by accommodated in the Blind Trust.

- I told him that this could by done by re-arranging the assets of the Blind Trust and this will enable to accommodate the top fee range. I also provided the pros and cons in general.

- It was agreed that once their daughter makes the final decision, I would be advised and then I will make the appropriate plans to accommodate the financial needs.

- Both of them were concerned about sending their daughter abroad at this young age.

- No other business discussion took place.

- Meeting concluded – 11 a.m. (approx.)

- As Balwinder made lunch arrangements, Mr. Takhar went out to make some calls to his office staff. Shortly after having lunch Balwinder and I went out to the parking lot with Mr. Takhar.

"J. Jeyanayangam"

(11) 4/29/05

April 29, 2005' Meeting Notes.

- Mr. H. Talkhar, Balinder Talkhar + I met in the Boardroom around 8:30 a.m.
  The meeting was about their younger daughter's plans to seek admission to University/College in 2005.
- Balinder indicated that ~~the~~ Shivandeep was actively considering six to seven Universities/College in Canada and abroad.
- Both of them discussed the following issues.
  - Location of the University
  - Reputation of the university/college
  - Programme Structure and long term prospects.
  - Course fees - Residence fee. Bill costs.
  - Daughter's preference

  The pros + cons of the above issues discussed in greater length.

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(2)

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No other Business discussion took place.

Meeting concluded - 11 am (approx.)

As Balwinder made lunch arrangement, Mr. Talhar went out to make some calls to his office staff. Shortly after having lunch Balwinder + I went out to the parking lot with Mr. Talhar:

APPENDIX 'B'

INTERVIEWS

(1)	Joseph Jeyanayangam, Trustee	July 19, 2005 December 2, 2005
(2)	Balwinder Takhar, Minister Takhar's wife	July 19, 2005 December 2, 2005
(3)	Christina Blizzard, Toronto Sun Reporter	July 21, 2005
(4)	Brett Kelly, Director of Research, P.C. Services	July 26, 2005
(5)	Jeffrey Kroecker, Policy Advisor, Health and Long-Term Care	July 29, 2005
(6)	Earl McKinnon, Minister's Driver	August 24, 2005
(7)	Muriel Alvarez, Minister's Executive Secretary and Scheduler	September 12, 2005
(8)	The Honourable Harinder Takhar, Minister of Transportation	September 20, 2005 December 1,2005